SUPREME COURT OF THE UNITED STATES.

No. 599.—October Term, 1935.

Edward A. Leahy, Petitioner, *vs.* State Treasurer of Oklahoma et al. } On Certiorari to the Supreme Court of Oklahoma.

[March 2, 1936.]

Mr. Justice Brandeis delivered the opinion of the Court.

Leahy brought this action in a court of Oklahoma against the State Treasurer and others to recover $11.99 paid under protest as state income tax. He is a duly enrolled member of the Osage Tribe of Indians, and has long held a certificate of competency. As such member he is entitled to receive, from time to time, his pro rata share of the income of the restricted mineral resources of the Tribe held by the United States for the Tribe under the Act of June 28, 1906, c. 3572, 34 Stat. 539, and later legislation. The tax challenged is upon such income paid to him. Leahy claims that it is void because laid by the State upon a federal instrumentality. The trial court overruled the contention and entered judgment for the defendants. On the authority of *Choteau* v. *Burnet*, 283 U. S. 691, its action was affirmed by the Supreme Court of the State, three judges dissenting. — Okla. —. We granted certiorari because of the constitutional question presented. 296 U. S. —.

The facts are substantially the same as those presented in *Choteau* v. *Burnet, supra,* which upheld a federal income tax on a like payment. The applicable statutes and decisions are discussed there. As Leahy was entitled to have the income paid to him and was free to use it as he saw fit, no reason appears why it should not be taxable also by the State.

Affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.